(1) Supreme Court, U.S.
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NO. _____

IN THE

Supreme Court of the United States

On Petition for Writ of Certiorari to the Texas State Supreme Court from the Texas 14th Court of Appeals
Petition for Writ of Certiorari

Robert H. Williams, Melissa B. Williams, Danielle H. Williams, Kristen J. Williams, and Stephanie F. Williams, *Petitioners, Pro Se.*

v.

Greg Gleason, Beth Gleason, Robert L. Roane , Andrew W. Edwards, William R. Stuck, Neal T. Hare, Thomas W. Hartnett, Jr., Robert E. Stewart, Harold P. Tolsma, William A. Fitzhenry, David Lee Wakeland, Gordon E. Landreth, Irvin M. May, Jr., Robert Charles Bishop, James C. Bland, Donald L. German, E. R. McDaniel, Lawrence S. Ruddell, Michael L. Wilson, and Fred R. Willard, *Respondents.*
(Multiple counsels as detailed in list of parties.)

Petitioners, Pro Se: Robert H. Williams, Melissa B. Williams, and minor children: Danielle Hope Williams, Kristen Joy Williams, and Stephanie Faith Williams:
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64 pp

QUESTIONS PRESENTED FOR REVIEW
(parameters & admonitions of Rule 14.1.a in mind):
INTRODUCTORY STATEMENT (12 points) TO PROVIDE CONTEXT FOR QUESTIONS PRESENTED:

The 14th Court of Appeals of the State of Texas (hereafter called the "14th Court") has held that that individuals who claim religious exemptions are not subject to a host of garden variety civil tort laws dealing with such torts as "false imprisonment, tortious interference with business, libel," et al, because Respondents' claimed religious status precludes "subject matter jurisdiction" of the civil courts.

The 14th Court has also held that it can recast and rewrite the non-movant Petitioners' valid tort claims "...without considering what they [Petitioners] use as claims..."

The 14th Court has held that it can, even for purposes of reviewing demurrer, and as a matter of law, treat as false how the non-movant Petitioners "...Williams argue their claims arise in tort..." and also, accept as true even the disputed claims of movants (Respondents) for demurrer.

The 14th Court (represented by the three-justice panel in the instant case) has followed as precedent an earlier dissenting minority opinion issued by one of the three justices in the instant case, abandoning the principle of stare decisis (citing "...Sears, J., dissenting, Diocese v. Stone, TX. App. 892 S.W.2d 169-179 (14th Dist, Tex. App.–Houston 1994, See this writ's Appendix, page 7).

The 14th Court has outlined a new constitutional standard for ecclesiastical abstention ("...Because the *genesis* of this lawsuit *implicates* ...an ecclesiastical dispute, we are constitutionally prevented from exercising jurisdiction ...", *emphases added*) that is new and different and contrary to the *"purely ecclesiastical"* non-justiciability standard clearly set and reiterated by the U. S. Supreme Court.

The 14th Court has taken away pure fact questions of

intent, motive, malice, etc., from any potential fact finder by granting religious Respondents who are movants for demurrer the benefit of an irrebuttable presumption of truth in all arguments of law and fact, thus precluding a fact finder from ever being seated.

The 14th Court has held in practice that they may indulge every reasonable inference and all doubts in favor of the ***movants*** for demurrer instead of the non-movants.

The 14th Court has held in practice that they may treat all evidence favorable to the non-movants for demurrer as either false or non-existent instead of true.

The 14th Court has held in practice that they may treat all disputed claims as true and favorable to the movants for demurrer.

The 14th Court has held in practice that even when there is a genuine issue of material fact, it may and will place the burden on the non-movant to prove why the court may not treat it as a non-issue of material fact.

The 14th Court has held that the only important constitutional issue in such a case "implicating" any "ecclesiastical dispute" claimed by the movants for demurrer is the "...Free Exercise Clause [which] provides a shield from ... secular inquest..."

The 14th Court has held in practice that Equal Protection, Due Process, Establishment Clauses, et al, of the Texas and U. S. Constitutions are practically and totally irrelevant to any such suit once movants for demurrer claim that the torts can be traced in the "genesis" of the lawsuit to that which merely "implicates... an ecclesiastical dispute..."

IN SUM: These holdings, findings, decisions, and actions of the 14th Court raise substantial federal & Constitutional questions that warrant review by this Court as follows:

A) Whether the Free Exercise clause alone is the central and ruling factor in a lawsuit that "implicates" religious

personalities or actions whatsoever, or must that clause also be weighed alongside Establishment, Due Process, and Equal Protection issues.

B) Whether the "purely ecclesiastical" standard set by the United States Supreme Court in such cases is no longer a valid or guiding standard binding upon the lower courts.

C) Whether religious defendants/movants for summary judgment can be given favorable treatment and the benefit of different standards in standards governing demurrer .

D) Whether defendants claiming religious motives for violations of neutral, age-old, color-blind, garden variety, civil tort laws can or must be accepted by a finder of law as sincere in their beliefs, even though unexamined by any properly empanelled fact-finder, especially when standing before the court as movants for demurrer.

E) Whether disputed fact issues and questions such as intent, motive, malice, etc., can routinely be taken away by a finder of law from a fact-finder, and under what circumstances, if ever.

F) Whether the 14th Court's new standard for non-justiciability of anything which in its "genesis... implicates a religious dispute..." passes constitutional muster.

G) What the precise meaning and scope of the 14th's above phrase is, and for purposes of demurrer motions, whose disputed account must the court believe in determining whether the "genesis of a lawsuit" truly does implicate an "ecclesiastical dispute" in the absence of a fact finder.

H) Whether the finder of law can properly dismiss as false, insincere, or non-existent, the claims, filings, affidavits, motions, et al, of the non-movants for summary judgment.

I) Whether it is constitutionally still "... incumbent upon the courts to develop the case and to sift the claims and known facts thoroughly until completely satisfied either of its merit or lack of same..." before granting demurrer.

J) Whether equal protection (for plaintiffs) allows for religious officer defendants to be granted a favorable status before the courts not accorded non-religious defendants or religious defendants with no religious office.
K) Whether constitutional notions of due process under the law is granted plaintiffs when defendants claiming favored religious status are protected by the finder of law from ever being examined by a finder of fact.
L) Whether the establishment clause is violated when defendants claiming religious exemption from civil tort laws are granted demurrer, even when hotly disputed and material fact questions abound, ripe for a fact finder.
M) Whether the due process, equal protection, and establishment clauses protecting plaintiffs are violated when demurrer is granted to religious defendants in the face of extant motions against them for false affidavits, motions to compel discovery, et al.
N) Whether in a civil tort suit against individuals (with no religious organization named, no religious remedy sought, and consequently no religious redress available) a finder of law can constitutionally determine, absent both a trial, fact finder, and completed discovery, "...whether this suit is ecclesiastical, or concerns property rights, torts, or criminal conduct..." as the 14th Court did in determining no valid civil tort claims were legally possible.
O) Whether the finder of law goes beyond the scope of its authority and competency in adjudicating as true the false, pejorative, legally irrelevant, and disputed accusations of Respondents dealing with Petitioners' motives ("...a disgruntled member, denied the chance to sue the religious body, sued instead the members of the religious body who disciplined him...") - factual issues not properly raised nor justiciable by a finder of law in demurrer, all at the same time that the 14th Court fails to factor in at all, for

purposes of Petitioners resisting summary judgment, the proper fact issues raised and proved prima facie by Petitioners about the reckless, malicious intent, motives, and actions of Respondents (fact issues properly raised requiring a fact finder and precluding demurrer).

P) Whether egregious acts such as false imprisonment, e.g., given no thought at all by the 14th Court as to literally not be discussed at all in its opinion, can be so dismissed out of hand by a civil court finder of law, absent a finder of fact ever being seated, without giving the clear signal that the court has completely abandoned all semblance of impartiality and has become an advocate for Respondents.

Q) Whether the same constitutional standard of "purely ecclesiastical" and therefore non-justiciable when applied to possible tort claims surrounding the hiring, firing, and other employment matters of clergy, e.g., can be properly applied to mere members or mere former members who have never been secular or religious employees of the religious organization, its officers, nor its members.

R) Whether it is a legal possibility that members or officers of a religious organization could commit a variety of civil tort violations upon fellow members or former members, either inside or outside church or denomination "walls."

S) Whether an intermediate appellate court such as the 14th can constitutionally and fairly abandon the ruling principle of stare decisis, effectively overruling its own precedent in its contrary decision in Diocese v. Stone, TX. App. 892 S.W.2d 169-179 (14th Dist, Tex. App.-Houston 1994) in which one of three 14th Court justices in the instant case wrote the dissenting minority opinion in the prior published precedent, and instead follow his dissent.

LIST OF PARTIES TO THE PROCEEDING:
Robert H. Williams, Melissa B. Williams, Danielle H. Williams, Kristen J. Williams, and Stephanie F. Williams, *Petitioners, Pro Se.*

Greg Gleason, Beth Gleason, Robert L. Roane , Andrew W. Edwards, William R. Stuck, Neal T. Hare, Thomas W. Hartnett, Jr., Robert E. Stewart, Harold P. Tolsma, William A. Fitzhenry, David Lee Wakeland, Gordon E. Landreth, Irvin M. May, Jr., Robert Charles Bishop, James C. Bland, Donald L. German, E. R. McDaniel, Lawrence S. Ruddell, Michael L. Wilson, and Fred R. Willard, *Respondents.*

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Appendix Item #2: Order Granting Motions for Demurrer in the Trial Court: Appendix pages 15-16, inclusive.

Appendix Item #3: Clerk of Court Notification of Summary Judgment Orders in Trial Court: Appendix pages 17-18, inclusive.

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Appendix Item #6 : January 4, 2001, Denial of Rehearing Petition, Texas State Supreme Court: Appendix pages 21-22, inclusive.

Appendix Item #7: November 16, 2000, Denial of Petition for Review, Texas State Supreme Court: Appendix pages 23-24, inclusive.

PROCEEDINGS IN THE TRIAL COURT: Petitioners have been denied a fact finder and a jury trial in the trial court because the trial court granted summary judgment despite Respondents' premature, erroneous, false, defective, and inadequate demurrer motions and despite Petitioners' multiple, lengthy, written objections and motions resisting demurrer, but before Petitioners were allowed completed discovery. The trial court erroneously held it lacked civil jurisdiction over these purely civil claims since the defendants claimed religious immunity and religious exemptions from civil prosecution of civil tort claims. There have been subsequent motions and rehearings for new trial, denied by the trial judge, while the trial court still retained plenary jurisdiction.

THE JUDGMENTS OF THE TRIAL COURT: The trial court dismissed all complaints against Respondents, including, but not limited to, all disputed claims such as False Imprisonment and Tortious Interference with Business, et al, by virtue of Respondents' claimed religious affiliation. See Appendix pages 15–18, items 2 & 3.

PROCEEDINGS IN THE COURT OF APPEALS: The 14th Court requested and received briefs from Petitioners on October 12, 1998 and May 12, 1999 and briefs from Respondents on March 22, 1999. Petitioners were denied their motion for rehearing en banc which they filed on June 2, 2000 after receiving the opinion dated May 18, 2000 (See Appendix pages 1-14, item #1). Rehearing en banc was denied by the 14th Court of Appeals on August 17, 2000. (See Appendix page 19, item #4.)

THE JUDGMENT & OPINION OF THE 14TH COURT

Footnote: Pro se Petitioners have used 12 pt. Book Antiqua for the body of the text, instead of the minimum acceptable 11 pt., and used 10 pt. instead of 9 pt. minimum for footnotes, to avoid any problems.

OF APPEALS (3 JUSTICE) PANEL: Justice Joe L. for the Draughn authored the opinion for the Panel. The citation opinion of the court of appeals can be found at 2000 Tex. App. Lexis 3294, No.14-98-00050-CV, and shall be referred to in this motion as "the opinion." The opinion was published May 18, 2000. See Appendix Pages 1-14, item 1. The court found that both it and the trial court were without jurisdiction to hear or judge any civil tort issues in any such case, NOT because these matters were "purely ecclesiastical," but rather because the "genesis" of the lawsuit had some ecclesiastical concerns "implicated."

TEXAS STATE SUPREME COURT PROCEEDINGS: The Texas Supreme Court declined to review the judgment of the 14th Court, on November 16, 2000. See Appendix pages 23-24, inclusive, item #7), and finally on January 4, 2001. See Appendix pages 21-22, inclusive, item #6. Judgment below is therefore "final" for purposes of this Court's jurisdiction under § 1257.

BASIS FOR JURISDICTION: The 14th Court's opinion quotes and refers to both the both the U. S. Constitution ("...First Amendment of the United States Constitution, applied to the states through the 14th Amendment ..") and to federal constitutional issues and federal case law (See Table of Authorities) which were also raised in both the trial and 14th Court proceedings and the opinion even claims its decision is based upon those federal issues and questions. The final sentence of the opinion of the 14th Court (before affirmation) states: "Because the genesis of this lawsuit implicates and, {sic} is permeated throughout by, what is essentially an ecclesiastical dispute, we are constitutionally prohibited from exercising jurisdiction over it." Petitioners have first raised state and federal Constitutional questions and issues as early as their first (and later, first amended) petitions in the trial court, and in

multiple subsequent motions and filings in the trial court, including motions for new trial. Petitioners continued to raise those state and federal Constitutional questions, issues and objections in the 14th (intermediate appellate) Court and in the Texas State Supreme Court.

CONSTITUTIONAL PROVISIONS & CITATIONS: The First Amendment to the U. S. Constitution provides, in pertinent part, that "Congress shall make no law . . . abridging the freedom of speech, . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U. S. CONSTITUTION, Amendment I. The Fourteenth Amendment to the U. S. Constitution provides, in pertinent part, that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONSTITUTION, Amendment XIV, § 1.

STATEMENT OF THE CASE: This case is a purely civil case alleging various torts, among them: Libel, False Imprisonment, Slander, Intentional Infliction of Emotional Distress, Tortious Interference with Business and Occupations, RICO Civil Violations, Conspiracy in Tortious Acts, Extortion and Blackmail, Negligence, Fraud, et al. Respondents committed these torts against pro se Petitioners. [A] Despite false and misleading allegations of

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[A] "...as the court stated in Green v. McKaskle: It is not.. always easy to determine whether a claim is frivolous simply by examining the pleadings...*pro se pleadings must be construed liberally*. Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972). Unless the frivolousness of a claim is facially apparent, it is *incumbent upon the court to develop the case and to*

the Respondents throughout the proceedings in these civil courts, some of the simple facts of this case are as follows:

[A] (cont.) *sift the claims and known facts thoroughly until completely satisfied either of its merit or lack of same*. Green v. McKaskle, 788 F.2d 1116, 1119 (5th Cir. 1986). Birdo v. Debose, 819 S.W.2d 212 (Tex. 10th App.--Waco 1991, no writ)." (Emphases added)

"..The purpose of the summary judgment rule is not to provide either a trial by deposition or a trial by affidavit, but rather to provide a method of summarily terminating a case when it clearly appears that only a question of law is involved and that no genuine issue of fact remains. Gaines v. Hamman .Requipco, Inc. v. Am-Tex, Tank & Eq., Inc., 738 S.W. 2d 299, 302 (Tex.App. Houston [14th Dist.]1987) Port v. Fritz, 775 S.W.2d 669.(1989)

"We do not believe .. the difficulty .. could possibly justify .. judicial sleight-of-hand to circumvent the constraints our Constitution imposes upon this Court.... We have long recognized that the Texas Constitution confers an exceptionally broad jury trial right upon litigants. See State v. Credit Bureau of Laredo, Inc. ... Tolle v. Tolle, ...; Tex. Const. art. I, Section(s) 15; art. V, Section(s) 10. And we have warned that courts must not lightly deprive our people of this right by taking an issue away from the jury. Young v. Blain... A court may be entitled to decide an issue as a matter of law when there is no conflict in the evidence, but when there is evidence on either side, the issue is a fact question. Id. .. no circumstances that make a jury unsuited to decide .. We therefore hold that whether .. acted in bad faith .. is a question for the fact-finder.." Universe v. Giles, 950 S.W.2d 48 (1997), 40 Tex.Sup.J.810, No.94-0992 (7/9/97)

"...The Free Exercise Clause ***never has immunized*** clergy or churches from all causes of action *alleging tortious conduct*..." Tilton v. Marshall, TX S.Ct, 925 S.W.2d 672 (1996). Emphasis added.

"...it is acknowledged that they [churches, their congregations and hierarchy] are *as amenable as other societal entities to rules governing property rights, torts*, and criminal conduct..." Watson v. Jones, 80 U.S. 679, 732-33, 20 L.Ed. 666 (1871). Emphases added.

among other tortious acts, the Respondents engaged in a campaign of intimidation and terror against Petitioners, including, falsely imprisoning the major Petitioners inside a bolt locked building on Respondents' church property depriving major Petitioners of their ability and freedom to leave and later sending them both to a side room where Respondents demanded Petitioners not dare try to exit that room until Respondents came back for them. In addition to such torts aimed at Petitioners "INSIDE Respondents' church walls," Respondents also cooperated and conspired in a successful terrorizing conspiracy aimed at and affecting major Petitioners (and in some tort violations, minor Petitioners also) through libel, slander, tortious interference with businesses & occupations, tortious interference with free association with other churches and other denominations, extortion, blackmail, intentional infliction of emotional distress, et al, "OUTSIDE Respondents' church walls." [B] It is legally axiomatic

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B. We have never held that an individual's religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate. On the contrary, the record of more than a century of our free exercise jurisprudence contradicts that proposition. As described succinctly by Justice Frankfurter in Minersville School Dist. Bd. of Ed. v. Gobitis, 310 U.S. 586, 594-595 (1940): "Conscientious scruples have not, in the course of the long struggle for religious toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs. The mere possession of religious convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities ..." We first had occasion to assert that principle in Reynolds v. United States, 98 U.S. 145 (1879), where we rejected the claim that laws against polygamy could not be constitutionally applied to those whose religion commanded the practice. *"Laws," we said, "are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices. . . . Can a man excuse his practices to the contrary because of his religious belief? To permit this would be*

that the statements, facts, and claims of Petitioners as stated here in this writ and in their filings, affidavits, motions, answers, briefs, etc., in the trial and appellate

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[B] (cont.) *to make the professed doctrines of religious belief superior to the law of the land, and in effect to* ***permit every citizen to become a law unto himself."*** Id., at 166-167. ...consistently held that the right of free exercise does not relieve an individual ...of the obligation to comply with a "valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." United States v. Lee, 455 U.S. 252, 263, n. 3 (1982) ... see Minersville School Dist. Bd. of Ed. v. Gobitis, supra, at 595... In Prince v. Massachusetts, 321 U.S. 158 (1944), we held that a mother could be prosecuted under the child labor laws for using her children to dispense literature in the streets, her religious motivation notwithstanding. We found no constitutional infirmity in "excluding [these children] from doing there what no other children may do." Id., at 171. In Braunfeld v. Brown, 366 U.S. 599 (1961).., we upheld Sunday-closing laws against the claim that they burdened the religious practices of persons whose religions compelled them to refrain from work on other days. In Gillette v. United States, 401 U.S. 437, 461 (1971), we sustained the military Selective Service System against the claim that it violated free exercise by conscripting persons who opposed a particular war on religious grounds. Employment v. Alfred Smith, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876, 58 U.S.L.W. 4433. April 17, 1990 (Emphases added).

"Regardless of the church's motives or objectives, or the circumstances giving rise... torts...cannot be perpetrated upon its members with impunity..." McClure v. Salvation Army (5th Cir. 1972) 460 F.2d 553).

"The commission of a common law tort in the name of or under the auspices of a church does not lessen its culpability..." Higgins v. Maher 210 Cal.App.3d 1173.

"Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another..." Everson v. Board (1947) 330 U.S. 1, 67 S.Ct. 504, 91 L.Ed. 711.

"...While the Establishment Clause's concept of neutrality is not self-revealing, our recent cases have invested it with specific content: the state may not favor or endorse either religion generally over nonreligion or one religion over others.... See, e.g., Allegheny County, 492 U.S., at 589 - 594, 598 – 602 (cont.)

courts below must be considered true by trial and appellate courts, as a matter of law, in a legal review of Respondents' demurrer motions. Petitioners have raised a plethora of cases in the Texas Supreme Court, in the 14th's own Court, in the Federal Courts, and in the U. S. Supreme Court, which places such tort violations, even if committed by clergy, churches, or congregations, squarely and undoubtedly within the civil court jurisdiction. Not only have Respondents' ongoing actions for years toward Petitioners been outrageous and egregious, but it is also an insult to the dignity and humanity of Petitioners to posit the patently false argument that tort-feasor Respondents can continue to commit such acts with impunity against Petitioners without Petitioners being able to avail themselves of the equal protections of the laws and the constitutions of Texas and the United States.

[B] (cont.); Texas Monthly, 489 U.S., at 17 ... Edwards v. Aguillard, 482 U.S., at 593; School Dist. of Grand Rapids, 473 U.S., at 389-392; Wallace v. Jaffree, 472 U.S., at 61; see also Laycock, Formal, Substantive, and Disaggregated Neutrality Toward Religion, 39 De Paul L. Rev. 993 (1990); cf. Lemon v. Kurtzman, 403 U.S. 602, 612-613 (1971). This principle against favoritism and endorsement has become the foundation of Establishment Clause jurisprudence, ensuring that religious belief is irrelevant to every citizen's standing in the political community, ...See J. Madison, Memorial and Remonstrance Against Religious Assessments (1785), in 5 The Founders' Constitution, at 82-83, and protecting religion from the demeaning effects of any governmental embrace, see id., at 83. Now, as in the early Republic, "religion & Govt. will both exist in greater purity, the less they are mixed together." Letter from J. Madison to E. Livingston (10 July 1822), in 5 The Founders' Constitution, at 106. Our aspiration to religious liberty, embodied in the 1st Amendment, permits no other standard...." 1992.SCT.3744. ROBERT E. LEE v. DANIEL WEISMAN ETC. 112 S. Ct. 2649, 120 L. Ed. 2d 467, 60 U.S.L.W. 4723 (cont.)

It remains obvious that Respondents are so desperate to find or cite a single case on point in any court of competent

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[B] (cont.) "...The threshold question in determining *the validity of a free exercise defense is whether the belief called into question is in fact bona fide; if it is not, then the question whether the law as applied is.. unconstitutional need not be reached*. In Wisconsin v. Yoder, 406 U.S. 205, 92 S. Ct. 1526, 32 L. Ed. 2d 15 (1972), the Supreme Court established guidelines for determining whether a belief is a religious belief, the free exercise of which is protected by the First Amendment ... The Court pointed out that "to have the protection of the Religion Clauses, the claims must be rooted in religious belief," for "(a) way of life, however virtuous and admirable, may not be interposed as a barrier to... reasonable state regulation ...if it is based on purely secular considerations." 406 U.S. at 215, 92 S. Ct. at 1533. While recognizing that "a determination of what is a "religious' belief or practice entitled to constitutional protection may present a most delicate question," the Court nevertheless found such a determination necessary when a free exercise defense is asserted because *"the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests*." Id. at 215-16, 92 S. Ct. at 1533 (footnote omitted); see also Founding v. U.S., 133 U.S. App. D.C. 229, 409 F.2d 1146, 1160 (D.C. Cir. 1969), cert. denied, 396 U.S. 963, 90 S. Ct. 434, 24 L. Ed. 2d 427. Fiedler v. Marumsco Christian School, 631 F.2d 1144 (4th Cir. 10/10/1980)

"..We do note, however, there may be circumstances where a Bishop or other church authority makes statements which overstep the bounds of the authority's administrative duties. When statements are made by a church authority which are clearly intended to defame or inflict emotional distress, the authority has overstepped the bounds of his administrative duties and the statements may fall outside ecclesiastical protection. See Watson, 80 U.S. at 732-33... Tran v. Fiorenza, 934 S.W.2d 740 (Tex. App.-Houston, 1st Dist) 1996.[B] (cont.)

jurisdiction (and upheld on appeal) that they resort to cases that are clearly not on point and hope that the courts will gloss over the distinguishing features and lump it all in the "religious bag." They have been sadly right to today. It can be seen with even the most cursory and any open minded review of even a mere smattering of precedent submitted by Petitioners that the civil courts certainly do not consider such civil tort violations, even if committed by "religious actors," as outside the subject matter jurisdiction of the civil courts. [C] Although Petitioners are not legally proscribed at all by statute and case law and Constitution from naming a religious organization in such a suit, Petitioners wish to bring it to the courts attention that Petitioners have consciously been very conservative in their approach to this legal matter, and very self-controlled in casting the proper net as narrowly as possible to protect themselves and their children from ongoing terror and intimidation. No religious organization or body has ever been named by Petitioners in any civil suit at any time.

B (cont.). "Art.I, Sect.6 of the TX Const. and the 1st Amend. to the U.S. Const...afford .. protection to the free exercise of religion ...they do not .. bar all claims which ..touch on religious conduct. . the free exercise of religion does not go so far as to be inclusive of actions which are in violation of social duties or subversive of good order. Although freedom to believe may be said to be absolute, freedom of conduct is not and conduct even under religious guise remains subject to regulation for the protection of society.." Tilton, 925 S.W.2d 672, Tx. S.Ct (1996). "..while ordinarily the civil courts have no jurisdiction over ... purely ecclesiastical questions and controversies, they do have jurisdiction as to civil, contract, and property rights even though such rights are involved in, or arise from, a church controversy..." Diocese v. Stone, 892 S.W.2d 169(14th Dist.)1994 .... [B] (cont.)

Petitioners have not ever and do not now seek civil adjudication of the truth or veracity of any church doctrines, believing it is beyond the scope of the civil courts. Petitioners do not seek from the civil courts the reversal of any church disciplinary action, believing as we do that the civil courts have no authority to make any church reverse any disciplinary action, and heartily and

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[B] (cont.) "...The mere fact a church official's wrongful conduct may violate church policy...in no way precludes the same conduct from ...being prosecuted under secular. Fawbush,946 F.2d 584 (8th C.'91)" State v. Burckhard,1998 ND 121.

> "...It would be unjust, however, if a party could be released from its contract merely by fabricating a religious basis for its breach...we follow the Supreme Court's requirement that the finder of fact determine whether the party claiming protection of the Free Exercise clause possessed an "honest conviction" that his religion required the complained-of action. Id. at 715-716, 101 S. Ct. at 1430-31. As such, the trial court here should have submitted to the jury the issue of whether Seton Hall honestly possessed the belief... In making that determination, the finder of fact must consider whether... [actions were].. religiously motivated or whether the University had ..nonreligious goals.... if the jury finds that Seton Hall's asserted religious belief was not honestly held and that its actions were not principally religiously motivated, it will not be protected by the Free Exercise clause... The issue of whether Seton Hall honestly possessed a religious belief which impelled it to breach its contract .. is a factual one which must be presented to the jury..." Welter, 579 A.2d 332,243 N.J.Super.263 08/06/1990.

sincerely believe (along with all the legal authorities including this august Supreme Court of the United States) that such "purely ecclesiastical" matters truly are and should always be outside the scope of the civil authorities. Petitioners have never been employees of Respondents, religious or otherwise, nor of Respondents' church denomination, and correspondingly do not seek the courts to interfere in employment issues of any religious clergy. But instant adult and minor Petitioners have simply been deprived of their civil rights guaranteed them or protected under the Equal Protection, Due Process, Free Exercise, v. and Establishment clauses of the Constitutions of both Texas and the United States and of the protection of various laws which mandate that Respondents face a fact finder jury of their peers which would hear and adjudicate a multi-year and unabated campaign of terror and distress and damage against Petitioners. There is no legal basis to deprive Petitioners of the right to use as one line of proofs, out of many, that the tort-feasor Respondents were so reckless and so malicious in their carriage of a conspiracy in the commission of a host of civil torts that Respondents not only broke their own church procedures and rules in harming and seeking to harm the Petitioners' family members both INSIDE and even OUTSIDE their own denomination, but also received written rebukes from their own higher church authorities in doing the same. U. S. Supreme Court cases already cited above mandate the need for the courts to examine the validity of claimed religious defenses just as Petitioners must be allowed. Petitioners not only have never sought to question the "veracity" of the beliefs of Respondents' denominational, identifiable religious group, but have gone so far as to stipulate for the record that not only all of the Respondents' written denominational, theological beliefs,

but also even the non-doctrinal procedures as specifically mentioned in their P.C.A. (Presbyterian Church of America) B.C.O. (Book of Church Order) are good, wise, just, fair, and appropriate. Petitioners cannot be justly deprived of the right to prove Respondents' recklessness, malice, intent to harm, defame, intimidate and otherwise damage Petitioners by showing, for example, that the Respondents committed acts both outside and inside their denomination by breaking many expressly forbidden and neutral and non-theological B.C.O. procedural rules. E.g., there are P.C.A. procedural rules preventing church officers from accepting any secret documents or secret verbal accusations unknown to Petitioners about Petitioners, procedural rules which strictly insist that every accused has an undeniable right to be confronted face to face by his accuser, privately, first, and then in an official church court setting, and must have a chance to respond in each, totally preventing the possibility that any such secret, accusatory, potentially slanderous, libelous, false and unproven documents can even be accepted by church officers, even much more precluding that such secret documents may be published, and then circulated, both inside and outside their P.C.A. denomination, all completely without the knowledge and behind the back of the unsuspecting and secretly accused person or persons). For Respondents to argue before these civil courts that it was part of their religiously protected beliefs that they must be allowed to break and contravene their own proscribed denominational rules is the height of absurdity and insincerity. Respondents add insult to injury to argue that Petitioners are not even allowed to show finders of fact written proofs already in the court record that Respondents were rebuked and criticized by higher church court authorities about their destructive and reckless

actions aimed at Petitioners. However it was inevitable that the 14th Court decision would not embody justice when, unrestrained and unguided by constitutional, statutory, and case law, the 14th Court attempted to sidestep the clear lines of demarcation set out by this U. S. Supreme Court and has been so bold as to proffer both a new, different, and contrary guideline for achieving its goal to grant special privileges to religious Respondents. Court judgments made without applying age-old and consistent standards and precedents not only denies constitutional rights of Petitioners, but undermines the credibility and integrity of the entire judicial system and turns the stability of stare decisis and/or binding precedent and constitutional law into the public's perception of a crapshoot without the benefits of clear, long standing, and binding precedent. Petitioners respectfully pray that a writ of certiorari be issued to review the judgments and/or denials of the 14th Court and/or the Texas Supreme Court in this case. In plain contravention of the requirements of the Constitution of the United States and federal law, the Constitution of the State of Texas and Texas state law, and well established precedent in state and federal courts stretching back well over a hundred years, the 14th Court and the trial court have embarked on an exercise of improper judicial power, which appears designed to establish a small but favored religious group exempt from good, just, and religiously blind tort laws, thwarting the will of the people and founders. Because these matters are also central to the lines and laws delineating church and state, and are embodied in the Establishment and Free Exercise clauses, and are central to all American judicial concepts of due process, equal protection and treatment of its citizens, and are governed directly by the U. S. Constitution and federal

law, the court's decision involves issues of the utmost federal importance. The 14th Court's decision poses a clear and present denial of and affront and danger to the most fundamental and basic of constitutional rights imaginable. This should be corrected clearly and surely to ensure that our Nation continues to be governed by the rule of law properly enacted and not by the whims and legal preferences of mere men. This Court's review of the 14th Court's decision is warranted because the 14th Court clearly has "decided an important federal question that conflicts with relevant decisions of this Court," because the 14th Court has clearly "decided an important federal question in a way that conflicts with the decision of . . . a United States court of appeals," and it has "decided an important question of federal law that has not been, but should be, settled by this Court . . . " - U. S. Supreme Court, Rule 10, a, b, & c. This case presents important questions regarding the federal statutory, case law, and constitutional restraints on the ability of States and/or state courts to change standards for the resolution of controversies concerning or implicating any ecclesiastical matters or ecclesiastical personalities whatsoever. The decision below also conflicts with precedents of this Court and various courts of appeal regarding the scope of the First and Fourteenth Amendment protections. Moreover, these important questions are presented in the context of premature, patently unjust, and clearly unconstitutional summary judgment dismissal of valid tort claims. There is a profound national interest in ensuring that defendants who merely claim religious motives or exemptions for garden variety torts are not allowed to become a law unto themselves, especially when they can begin boasting the imprimatur of the civil judicial system to do so. This is precisely the type of question that the citizens of this land

should and do justifiably expect only this great, grand and Supreme Court to ultimately decide. Indeed, absent a decision by this Court, the signal that this lower court decision left standing sends to the Nation is that this Court believes a state may set up a church in many situations. Absent a decision by this Court, the signal this Court sends is that defendants who merely claim religious ***motives*** and ***beliefs*** for civil tort ***acts,*** need never prove such claims before a finder of fact, as well as a finder of law, since mere untested claims of religious affiliation or motives for civil tort violations will grant those religious claimants broad and sweeping powers "... to become a law unto themselves." Petitioners have even secured independent evidence from Respondents' own higher church court officials of clear evidence that Respondents had violated their own bounds (CRVolISpl, pgs. 25-26, CRVolIISpl,pgs. 230-231, and Petitioners' 3 briefs in the 14th Court cite much more). Unlike the thrust of Respondents' arguments, Petitioners have never and do not now ask for the court to break new ground, nor chart a new course, nor depart from more than a century of well documented precedent and abandon stare decisis. Petitioners have no need for such new jurisprudence. Petitioners pray for the courts to simply apply the civil tort laws in the same exact ways that the courts have done time and again for well over a century to the present day. It is the Respondents who, after having broken through the wall of civil law, now wish to retreat behind church walls, after their civil "hit and run." Petitioners refuse to believe that the members of this august Court could countenance such dangerous and poisonous concepts and standards, nor do Petitioners believe that any truly thinking and sincere religious or non-religious citizens would ever push to unleash such a Pandora's box upon the nation they love. Considering

those who would push for such unrestrained powers for mere religious claimants, we are reminded of the Senator who noted concerning a certain political power being sought that evil men could not be trusted with such a power and that good men would not seek for it. We do not believe any truly good and sincere folk would seek or countenance at all the concept and power of becoming a God unto themselves concerning the civil (and/or criminal) laws of the land, and malicious and insincere claimants could never be trusted with such. The consequences of this Court not quickly and easily correcting this by a simple remand for a full trial are not worth risking. Quite simply, this is the sort of decision that this Court should unquestionably overrule and remand. Despite express federal constitutional prohibitions against creation of a church, such as delineated in Everson v. Board, et al, the 14th Court has authorized a clear departure from the established constitutional requirements set forth by both the U. S. Constitutions, and settled by the U. S. Supreme Court in various cases, many cited here, such as Tilton. Id. Both the Respondents and the 14th Court clearly showed misplaced reliance upon cases such as Serbian v. Milivojevich, et al, in which a church officer or hierarchy properly conducted a purely religious qualifications review of a religious clergyman's employment status under the purely theologically determined qualifications of its clergy, who are the lifeblood of the church, and who have a legal status as paid clergymen that instant Petitioners have never had. The 14th Court purported to follow prior Texas and U. S. federal case law and Constitutions in reaching its decision but that claim is manifestly without foundation. This Court has an obligation to ensure that all other courts will resolve such cases by following this Court's clear guidance

and binding precedent. This Court alone can ensure that all courts actually resolve such religious controversies within the parameters of due process, equal protection, free exercise, and establishment issues.

REASONS FOR ALLOWANCE OF WRIT: The 14th Court started its opinion stating: "The principal question in this appeal is whether we have subject matter jurisdiction to decide an ecclesiastical dispute" (in upholding the trial court's demurrer before completed discovery and before a fact finder was seated). This clear misstatement of the principal question speaks volumes of its own and identifies the improper effect of both Respondents' arguments and their unceasing pejorative attacks on Petitioners before the courts leading to the 14th Court's unconstitutional findings and acts. The 14th Court begins its opinion showing that it had already accepted the Respondents' false, hotly disputed, and self-serving propositions as movants for demurrer that the case was merely an ecclesiastical dispute and not a civil case, even though clear civil violations such as false imprisonment, tortious interference with business, et al, were named, sworn to in affidavits, and proven prima facie by an overwhelming preponderance of that and other evidence by Petitioners. In reviewing summary judgment de novo, the 14th Court stated on its first page that it would employ the usual standard of review, but it MANIFESTLY did the EXACT OPPOSITE. For example, after multiple entire pages (in both the opinion's introductory section, and also the next 2 sections named ***"Background"*** and ***"The Controversy"***) recounting scores upon scores of both hotly disputed and false contentions of Respondents as if these false and disputed propositions were factually true (but NOT SO MUCH AS ONCE in their ENTIRE OPINION recounting any evidence, claims, doubts or inferences

favorable to the non-movant Petitioners as true), the court finishes the section named "***The Controversy***" by making the all-telling statement and last sentence before it opens a new section it calls "***Ecclesiastical Abstention.***" In its last sentence as though reticently throwing bare bones to a despised and dying dog "The Williamses also alleged Greg and Beth Gleason and his wife {sic} attempted to interfere with Mr. Williams's {sic} opportunity to preach at another church and of writing a libelous letter ..." Alleged? Also alleged? Can Petitioners hundreds and hundreds of pages of affidavits, documents, witnesses, transcripts, et al, merely allege? What happened to the vaunted standard of review promised by the opinion? [G] Throughout the opinion the false and disputed claims of movants for demurrer are magically and unconstitutionally changed

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[G] "..It is undisputed .. civil .. courts ..have jurisdiction over ..claims the ... party ...asserts: breach of contract, intentional infliction of emotional distress....While ordinarily the civil courts have no jurisdiction over and no concern with, purely ecclesiastical questions and controversies, they do have jurisdiction over civil, contract, and property rights even though such rights are involved in, or arise from, a church controversy...Diocese claims under... Milivojevich ...and Patterson... May's claims are barred without discovery... We disagree." Diocese v. Stone, 892 S.W.2d 169(14th Dist.)1994.

"..The language that his [the plaintiff's] conduct 'had rendered him unworthy of membership in the convention' were used in no mild or innocent sense...The petition alleges ... the plaintiff was a minister of the gospel and a publisher of a religious paper. Therefore we think that, if there were any doubt as to the language being quoted as libelous when applied to one whose avocations in life were not affected injuriously thereby, there could be none when applied to one pursuing the avocations which the plaintiff was following at the time ...were made." Cranfill v. Hayden, 80 S.W. 613, 97 Tex.544, (1904). (cont.) [G]

into (and recited as) accepted fact by the court, at the same time the claims, affidavits, and independent evidence of Petitioners are magically changed into mere "allegations" that the court can simply note in passing and discard with a wave of the hand as having absolutely no effect in a promised de novo review of demurrer.

G. (cont.)"..it is entirely appropriate, indeed necessary, for a court to engage in analysis of the sincerity - as opposed, of course, to the verity - of someone's religious beliefs in ..the free exercise context ..U.S. v. Ballard, 322 U.S. 78, 86, 88 L. Ed. 1148, 64 S. Ct. 882 (1944)... This court has.. held that a sincerity analysis is necessary ...to "differentiate between those beliefs that are held as a matter of conscience and those that are animated by motives of deception and fraud." Patrick, 745 F.2d at 157. In Int., 650 F.2d 430, 441 (2d Cir. 1981), we outlined several factors that indicate insincerity, noting that "an adherent's belief would not be 'sincere' if he acts in a manner inconsistent with that belief ... or if there is evidence that the adherent ..gains by fraudulently hiding secular interest behind a veil of religious doctrine." Philbrook v. Ansonia, 757 F.2d 476 (2nd Cir. 03/07/85).(cont.)

"..However, the freedom to act, even when the action is in accord with one's religious convictions, is not totally free from legislative restrictions. Cantwell v. Conn.... As pointed out in Reynolds v. U.S..., legislative power over mere opinion is forbidden but it may reach people's actions when they are found ... subversive of good order, even when ...demanded by one's religion. This was articulated by Thomas Jefferson when he said "Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation (cont.) G

Even more blatant, for example, if such a thing were possible, is the 14th Court's treatment of the false imprisonment claims sworn to and proven prima facie by Petitioners and very weakly but nonetheless legally disputed by Respondents. The opinion merely lists the "false imprisonment" claim on page 1 in the fourth (4th) sentence of the opinion in recounting the laundry list of tort claims of Petitioners (using the bare words "false imprisonment"), but it NEVER discusses, excuses, justifies, dispenses, develops, or explains anything whatsoever in connection with those claims in its the entire opinion – absolutely nothing! Pro se Petitioners are certainly aware that the public is often wary of and sensitive to the phrase "rush to judgment" so often made by defense attorneys in vigorously, professionally representing their clients, but

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G. (cont.) ..between church and State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties." 8 Works of Thomas Jefferson 113. And, in Barnett.. the Court was careful to point out that ".. collision with rights asserted by any other individual. It is such conflicts, which most frequently require intervention of the State to determine where the rights of one end and those of another begin. Thus, in Reynolds v. United States, this Court upheld the polygamy conviction of a... Mormon.. despite the fact that an accepted doctrine of his church then imposed upon its male members the duty to practice polygamy. And, in Prince v. Mass.... this Court upheld a statute making it a crime for a girl under eighteen years of age to sell any newspapers, periodicals or merchandise in public places despite the fact that a child of the Jehovah's Witnesses faith believed that it was her religious duty to perform this work. Braunfeld v. Brown, 366 U.S. 599,603

this Court can plainly see that such a characterization of the 14th Court's opinion is no overblown rhetoric on the part of pro se Petitioners. "...A judgment which rejects a claim, but avoids all reference to it, is as much against the right ... as if it has been specifically referred to and the right directly refused." Chapman v. Goodnow, 123 U.S. 540, 548 (1887). The 14th Court has the time and space to spends precious pages in its opinion reciting wonderful but legally irrelevant citations and references to Scripture pushed upon them by self-serving Respondents seeking to pejoratively influence the courts, as if the mere inclusion of Scripture or biblical references by Respondents apparently either helps tip the scales or else gives the courts some cover in turning garden variety civil torts into "purely ecclesiastical" matters by the mere inclusion or repetition of religious relationships or religious speech. But amazingly, the 14th Court has no time or space for the false imprisonment issue recounted above, not so much as even three words. The 14th opinion has no time to verify or check the gross factual and legal errors supplied them by the Respondents, e.g., in presuming (both against the facts and against the law's standard of review) that Petitioners were "without any summary judgment evidence" whatsoever : The instant opinion not only believes (contrary to the very promised and ostensible standard quoted by the opinion), but also parrots Respondents' misleading assertions in their briefs to the court when the opinion says: "...The Williamses filed a written summary response, without any summary judgment evidence... (14th Court footnote 1)." The quotation which the opinion partially lifted in referenced footnote #1 can be found in a statement made by Petitioners found in CR1stSpl. 9/23/98, pg. 12., in which Petitioners' demurrer. response actually contains 9 pages of detailed evidence (id, pgs 13-21) in 4

separate notarized statements. Also the record contains referenced documents to those various affidavits, and 10 motions and their underlying legal and factual basis, including a motion to compel discovery in order to allow Petitioners to fully respond to Respondents' demurrer motions. Respondents resisted such discovery. Petitioners unsuccessfully urged the trial court in writing not to grant premature hearings on demurrer motions, completely contrary to Respondents' false statements to this 14th court (see below). Petitioners also had a motion to challenge Respondents' affidavits, a motion for sanctions for false affidavits, a motion for extension of time, and 6 other motions, and an attachment that included 9 written objections to the trial court prematurely hearing and granting Respondents' demurrer. motions referred to on pg. 10 of "Petitioners' Reply Brief" [WARB-T] citing CRVol2Spl, pages 208 & 224. 44 pages of other demurrer evidence are in multiple affidavits and attachments in CRVol2, pgs. 485-507, CRVolIV(4)Spl, pgs. 1090-1101, and CRVolIV(4)Spl, pgs. 1108-1116, and ref. attachments on CR1stSpl., pgs. 22-39. The opinion exactly reverses the accepted standard and ignores any & all evidence of non-movant Petitioners. Respondents' demurrer motions and so called "evidence" are both defective and insufficient. These are outlined in the affidavits and motions cited to all the lower courts and raised again in Petitioners' 3 briefs to the 14th Court, including AOAB, pgs. 43-54, et al. Of special but not exclusive note is the great bulk of the Respondents motions almost entirely consist of worthless items as far as demurrer is concerned, such as conclusory legal statements, statements inconsistent with Respondents' affidavits, assertions not readily controvertible, etc. Respondents' affidavits at best are sufficient only to dispute facts asserted by Petitioners and

thus compel the need for a trier of fact and therefore defeat demurrer motions. As demurrer movants, Respondents must survive as legally sufficient, free of inconsistencies and other legal defects before Petitioners are even compelled to refute. Respondents' affidavits fail to survive on their own and fail to irrefutably overcome Petitioners' evidence. The 14th Court took no judicial notice of a libel per se document supplied to the court, nor did it apply the standard of this 14th Court in Gulf v. Mott, nor as the Supreme Court did in Cranfill, et al: See CRVol2Spl p.233-235(see Petitioners' review in WARB-T, pgs. 13-17) and referenced in multiple affidavits by Petitioners. The opinion ignores and treats as non-existent the admissions of a party opponent so contradictory to Respondents' motions and affidavits as would totally defeat (even by themselves) all Respondents' summary judgment motions: The opinion fails to address the admission of party opponents in documents supplied by Petitioners to the courts wherein the Respondents adamantly refuse to give over an entire volume of yet secret libelous materials ("..the big book.."), CR1stSpl, pgs. 23-24 and CR VolISpl, pg 227, 230-321). See WARB-S, pgs. 17 & 22, & WARB-T, page 27. Respondents have even refused to provide libelous documents (which they secretly suborned) to their own higher church courts with the claim that these documents are ecclesiastically "not relevant" and the denominational courts have no right to them. Then Respondents turn around and maintain before the civil courts that these documents are "purely ecclesiastical" and refuse the same documents on exactly antithetical grounds. Respondents cannot be allowed to maintain before the civil courts that these documents, their subornation & publication are covered by ecclesiastical privilege or ecclesiastical immunity, having sworn to their

denomination the exact opposite. It is no wonder that Respondents have an obvious interest in changing and characterizing all these civil torts as mere "doctrinal disputes" or "theological controversy" or mere "church discipline," to use the Respondents' phrases which are echoed by the 14th Court opinion. But it is truly a wonder to see an appellate panel not only show such no effort to actually follow the promised standard of review, but to show great effort to exactly reverse their promised standard of review. Pro se Petitioners are aware that unlike the 14th intermediate appellate Court, this United States Supreme Court does have the authority to break with stare decisis on these and other issues as is sees fit and to chart new and better ground. Thank God the Court has done so in Plessy v. Ferguson, et al. But we do not expect such in the present case. We cannot bring ourselves to believe and we see nothing on the horizon to make us believer that such an august Court will abandon that which has served the country so well to the present day. We cannot believe that this would be the first Supreme Court to take the stand that such torts as the false imprisonment of a church's members (or former members), the tortious interference with the business of its members (or former members), the reckless and malicious libel and slander of its members (or former members), whether OUTSIDE or INSIDE a church's and a denomination's "walls" are valid and protected "church disciplines" or "doctrinal disputes" or "theological controversies." This Court can readily see that no religious organization has ever been named as a party to this suit nor has any kind of any religious affiliation of any kind ever sought to be enforced, established, or re-established via the civil courts by the Petitioners. We present no "purely ecclesiastical" theological disputes or doctrinal disputes

here for the civil courts to settle in the instant case. What this case is truly about is whether individual religious members or religious officers have carte blanche to commit torts [H] and cloak them behind the mere untested phrases

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[H] "..It is undisputed .. civil .. courts ..have jurisdiction over ..claims the ... party ...asserts: breach of contract, intentional infliction of emotional distress....While ordinarily the civil courts have no jurisdiction over and no concern with, purely ecclesiastical questions and controversies, they do have jurisdiction as to civil, contract, and property rights even though such rights are involved in, or arise from, a church controversy....The Diocese claims that under... Milivojevich ...and Patterson..., May's claims are barred without discovery. We disagree." Diocese v. Stone, 892 S.W.2d 169(14th Dist.)1994.

"..The language that his [the plaintiff's] conduct 'had rendered him unworthy of membership in the convention' were used in no mild or innocent sense...The petition alleges ... the plaintiff was a minister of the gospel and a publisher of a religious paper. Therefore we think that, if there were any doubt as to the language being quoted as libelous when applied to one whose avocations in life were not affected injuriously thereby, there could be none when applied to one pursuing the avocations which the plaintiff was following at the time the publications were made." Cranfill v. Hayden, 80 S.W. 613, 97 Tex.544, (1904).

"..it is entirely appropriate, indeed necessary, for a court to engage in analysis of the sincerity - as opposed, of course, to the verity - of someone's religious beliefs in ..the free exercise context ..U.S. v. Ballard, 322 U.S. 78, 86, 88 L. Ed. 1148, 64 S. Ct. 882 (1944)... This court has.. held that a sincerity analysis is necessary ...to "differentiate between those beliefs that are held as a matter of conscience and those that are animated by motives of deception and fraud." Patrick, 745 F.2d at 157. In Int., 650 F.2d 430, 441 (2d Cir. 1981), we outlined several factors that indicate insincerity, noting that "an adherent's belief would not be 'sincere' if he acts in a manner inconsistent with that belief ...

of "church discipline" or "theological controversy" or "doctrinal disputes" without ever having a competent and fair finder of fact examine their false, self-serving, yet unproven, legally disputed, and

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[H] (cont.) or if there is evidence that the adherent ..gains by fraudulently hiding secular interest behind a veil of religious doctrine." Philbrook v. Ansonia, 757 F.2d 476 (2nd Cir. 03/07/85).

obvious ludicrous claims that could never pass muster before any competent and fair finder of fact, and which shouldn't ever find refuge with any impartial finder of law. The denomination which paid Mr. Williams to preach was NOT any "sister denomination" as the instant opinion parrots from the Respondents' slickly false insinuations. No such relationship exists between the totally separate denominations. The Respondents seek to insert some religious guise for the Respondents' clearly tortious interference with the Williams' family's ability or attempt to freely join in association with a separate denomination and for Mr. Williams to be offered further opportunities for paid preaching due to Respondents going totally outside their own denomination's walls (without any legal or church authority whatsoever) in order to harm the Petitioners. If the Respondents' patently false and absurd (yet heretofore amazingly successful) legal proposition that they are exempt from all civil tort law claims by virtue of their religious office or membership is upheld, then it is unnecessary for them to deny that such torts ever occurred, for they would have the legal carte blanche to commit them anyway, without fear of any legal reprisals or remedies whatsoever sought by Petitioners. And if the facts, claims, affidavits, third party evidences, documents,

audiotapes, filings, briefs, motions, et al, sworn to by Petitioners are false, then a finder of fact can quickly determine such.

However, what we have here is a case where Petitioners had, e.g., extant motions for false affidavits against certain (but not all) Respondents, motions to compel discovery against all Respondents, et al, and additionally there are signed admissions in the trial and appellate records by party opponents/Respondents (to third parties) that utterly defeat Respondents summary judgment motions. The 14th Court has given Respondents the patently unconstitutional and unjust advantage of an irrebuttable presumption of fact and favor in all issues, even if disputed, or in some notable issues, even though claimed by Petitioners and undisputed by Respondents! Petitioners do earnestly believe and hope from digesting many opinions, that this august and United States Supreme Court has shown and will show the scholarship, the will, the deep sense of legal, moral, and constitutional duty to correct such great injustice and unconstitutional behavior against the Petitioners, even when the harmed are the bare equivalent of political and legal gnats. The 14th Court panel completely abandoned stare decisis. The instant opinion completely reverses the 14th Court's earlier wise and constitutional opinion issued in Diocese, id, above, and admits as much by their oblique reference, citing Judge Sears who issued the minority dissenting opinion in Diocese, showing the instant panel clearly knew they were departing from stare decisis and issuing an opinion contrary to that prior case, turning Judge Sears' former minority dissenting opinion (in Diocese) into a majority, published, binding opinion in the instant case. Diocese, id, was squarely in line with the Texas & U. S.

Supreme Courts, stretching back over 100 years, in Cranfill, id, Milivojevich, id., Watson, id., et al. The 14th Court has promised Petitioners the justice and protection of review under the standards that prevent such an utter travesty, but has delivered the travesty instead.

CONCLUSION: Petitioners respectfully pray this Court will either remand this case back to the Trial Court for a full trial before a fact finder with Petitioners having the opportunity for complete discovery or else that a writ of certiorari be issued to review the judgment below.

APPENDIX:

Appendix Item #1 : May 18, 2000, Opinion of a three (3) judge panel sitting by assignment for the Texas 14th Court of Appeals:

Affirmed and Opinion filed May 18, 2000.

(seal) (The State of Texas)

In The Fourteenth Court of Appeals

Fourteenth Court of Appeals

NO. 14-98-00050-CV

ROBERT H. WILLIAMS, MELISSA B. WILLIAMS, DANIELLE HOPE WILLIAMS, KRISTEN JOY WILLIAMS, and STEPHANIE FAITH WILLIAMS, Appellants

V.

GREG GLEASON, BETH GLEASON, ROBERT L. ROANE, ANDREW W. EDWARDS, WILLIAM R. STUCK, NEAL T. HARE, THOMAS W. HARTNETT, JR., ROBERT E. STEWART, HAROLD P. TOLSMA, WILLIAM A. FITZHENRY, DAVID LEE WAKELAND, GORDON E. LANDRETH, IRVIN M. MAY, JR., ROBERT CHARLES BISHOP, JAMES C. BLAND, DONALD L. GERMAN, E. R. MCDANIEL, LAWRENCE S. RUDDELL, MICHAEL L. WILSON, and FRED R. WILLIARD, Appellees

On Appeal from the 164th District Court

Harris County, Texas
Trial Court Cause No. 97-06891

OPINION

The principal question in this appeal is whether we have subject matter jurisdiction to decide an ecclesiastical dispute. We find we do not, and affirm the trial court's judgment.

This dispute arose during a disciplinary action brought by the church's elders against Mr. and Mrs. Williams. The Williamses sued the elders for libel, slander, intentional infliction of emotional distress, breach of trust, breach of fiduciary and other responsibilities, negligence, false imprisonment, malicious prosecution, conspiracy, extortion and blackmail, tortious interference with business and/or occupations, R.I.C.O. violations, false and misleading advertising and fraud, and denial of due process. Each defendant answered and filed special exceptions and subsequently moved for summary judgment, arguing the trial court lacked subject matter jurisdiction to hear this ecclesiastical dispute. The Williamses filed a written summary judgment response, without any summary judgment evidence. (footnote 1) The trial court granted the summary judgment.

The Williamses appeal in twenty-seven points of error the trial court's grant of summary judgment. We affirm the trial court's judgment.

We will use the usual standard of review in considering whether the trial court erred in granting the summary judgment:

1. The movant for summary judgment has a burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law.
2. In deciding whether there is a disputed material fact issue precluding summary judgment, evidence favorable to the non-movant will be taken as true.
3. Every reasonable inference must be indulged in favor of the non-movant and any doubts resolved in its favor.

Nixon v. Mr. Property Management, 690 S.W.2d 546, 548-49 (Tex. 1985); MCDONALD & CARLSON, TEXAS CIVIL PRACTICE GUIDE 2d § 28.21 (1998).

Background

Robert H. Williams, his wife Melissa, and their children, Danielle, Kristen, and Stephanie, were members of the Covenant Presbyterian Church where Robert taught Sunday School. When they became members of the church, the Williamses vowed to submit themselves to the government and discipline of the church.

During one of his Sunday School lessons, Robert gave a lesson on the meaning of the Biblical verses contained in Romans 7:14-25. (footnote 2). After learning of Robert's interpretation, which was different than that espoused by the Presbyterian Church, certain church elders questioned Robert about the subject.

Although they did not remove Robert from his teaching position, they instructed him not to teach anything contrary to the established doctrines of the church. The Elders advised Robert he "was not under any formal disapproval, censorship, or other action" and was considered to be "a fully approved and participating member of the congregation."

After the Elders met with the Williamses, Robert and his wife brought a complaint with the local church's judiciary, the Session, against Ruling Elders Bill Stuck and Andy Edwards and Teaching Elder (Minister and Pastor) Bob Roane (footnote 3). The Session held a meeting where the Williamses presented evidence and arguments in support of their complaints. The Session appointed an *ad hoc* commission to investigate these complaints and found insufficient evidence to warrant censure of any of the accused elders. The decision of the Session was reported to the congregation of the church without mentioning any names.

Robert and Melissa appealed the Session's finding to the next level of the church judiciary, the Presbytery of South Texas of the Presbyterian Church of America. The Judicial Business Committee of the Presbytery reviewed their complaint against the Session and unanimously found no basis for the complaint. Later, the full Presbytery approved and adopted the Judicial Business Committee's decision. Robert and Melissa have appealed the Presbytery's decision to the Standing Judicial Committee, the highest court in the denomination, whose decision on this matter is not in the record.

While the Wiliamses' case was on appeal in the church courts, Covenant's Session brought its own disciplinary action against Robert and Melissa for breaking their membership vows and other misconduct, including making false, libelous, and misleading statements against the church Elders. The Session held a trial of the charges against the Williamses. The Williamses were present at the trial, but voluntarily declined to participate. After the trial, the Session voted to temporarily prohibit the Williamses from participating in the Church's sacrament of communion. The Williamses have appealed the Session's decision to the Presbytery of South Texas.

During the pendency of the church appeal, Robert occasionally preached at Christ Evangelical Presbyterian Church. Beth Gleason, wife of Greg Gleason, a deacon of Covenant, left a telephone message with Dr. Bob Peterson, of Christ Evangelical Presbyterian Church, regarding the qualifications required for a person to preach at an Evangelical Presbyterian Church. Beth Gleason never mentioned the Williamses in this phone message. Bob Peterson did not personally return the call, rather his secretary called to inform Mrs. Gleason he would not be able to help her.

Additionally, the Gleasons also accused the Williamses of sinning "by sowing seeds of discord among the brethren at Covenant." (footnote 4)

The Controversy

The Williamses filed this suit against both the members of Covenant's Session and the officers of the Presbytery of South Texas who reviewed the Session's judicial

determinations. The Williamses alleged each appellee was liable in the amount of five million dollars for: (1) libeling the Williamses through the statements contained in an instrument through which Church disciplinary charges were made against the Williamses; (2) libeling the Williamses through the statements contained in a September 11, 1996 letter from the Session to the Williamses concerning the inflammatory language used by the Williamses;5 (3) failing to follow the Church's own constitutional rules in the trial of the Williamses; (4) refusing the Williamses' request to have copies of the trial evidence and a transcript of the trial sent to them; (5) denying the Williamses' rights to: (a) cross-examine their accusers, (b) bring witnesses to corroborate their story, (c) allow a recording of the trial to be made, and (d) receive file stamp copies of their pleas and objections to the trial; (6) libeling the Williamses through a letter sent by the Clerk of the Session, William Stuck, to Ian Coulter, leader of the "Church Without Walls" ministry, which is sponsored by the Covenant Presbyterian Church; and (7) interfering with the Williamses attempt to join a church in a sister denomination.

The Williamses also alleged Greg and Beth Gleason and his wife attempted to interfere with Mr. Williams's opportunity to preach at another church and of writing a libelous letter to the Williamses attacking their character.

Ecclesiastical Abstention

The First Amendment of the United States Constitution, applied to the states through the Fourteenth Amendment, provides: "Congress shall make no law respecting an establishment of Religion, or prohibiting the free exercise

thereof." U.S. CONST. amend. I, XIV; *see Cantwell v. Connecticut*, 310 U.S. 296, 60 S. Ct. 900, 84 L. Ed. 1213 (1940). The Constitution forbids the government from interfering with the right of hierarchical religious bodies to establish their own internal rules and regulations and to create tribunals for adjudicating disputes over religious matters. *See Serbian E. Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 708-709, 724-25, 96 S. Ct. 2372, 2380, 2387-88, 49 L. Ed.2d 151 (1976); *Libhart v. Copeland*, 949 S.W.2d 740, 743 (Tex. App.–Waco 1997, no pet.); *Tran v. Fiorenza*, 934 S.W.2d 740, 743 (Tex. App.–Houston [1 st Dist.] 1996, no writ); *see also Diocese of Galveston-Houston v. Stone*, 892 S.W.2d 169, 179 (Tex. App.–Houston [14 th Dist.] 1994, orig. proceeding) (Sears, J., dissenting) ("Religious controversies are not the proper subject of civil court inquiry.").

Following this constitutional mandate, civil courts may not intrude into the church's governance of "religious" or "ecclesiastical" matters, such as theological controversy, church discipline, ecclesiastical government, or the conformity of members to standards of morality. *See Tran*, 934 S.W.2d at 743. Although wrongs may exist in the ecclesiastical setting, and although the administration of the church may be inadequate to provide a remedy, the preservation of the free exercise of religion is deemed so important a principle it overshadows the inequities that may result from its liberal application. *See id.*; *Dean v. Alford*, 994 S.W.2d 392, 395 (Tex. App.–Fort Worth 1999, no pet.). Because churches, their congregations, and hierarchy exist and function within the civil community, they are also amenable to rules governing property rights, torts, and criminal conduct. *See Watson v. Jones*, 80 U.S. (13 Wall.) 679, 732-33, 20 L. Ed. 666 (1871); *Brown v. Clark*, 102 Tex.

323, 331-32, 116 S.W. 360, 363 (1909); *Libhart*, 949 S.W.2d at 748.

Whether this suit is ecclesiastical, or concerns property rights, torts, or criminal conduct, is determined by first examining the substance and effect of the Williamses' petition—without considering what they use as claims—to determine its ecclesiastical implication. *See Tran*, 934 S.W.2d at 743; *Green v. United Penecostal Church Int'l*, 899 S.W.2d 28, 30 (Tex. App.–Austin 1995, writ denied); *see also Patterson v. Southwestern Baptist Seminary*, 858 S.W.2d 602, 605-06 (Tex. App.–Fort Worth 1993, no writ). Although the Williamses argue their claims arise in tort, we find that each claim implicates an ecclesiastical matter, namely their subjection to the church's discipline.

Instead of suing the church for its disciplinary actions, which would have provided the church with ecclesiastical immunity, the Williamses have sued members of the church conducting their disciplinary trial and appeal. Ecclesiastical immunity would be an empty protection if a disgruntled member, denied the chance to sue the religious body, sued instead the members of the religious body who disciplined him. If disciplined members were able to sue the members of the church, as opposed to the church itself, there would be an inappropriate chilling effect on the ability of churches to discipline their members. *See* Morken, *Church Discipline and Civil Tort Claims*, 28 IDAHO L. REV. 93, 94 (1991). Any such chilling effect would deteriorate the "high and impregnable" wall separating church and state and can not be tolerated. *See Everson v. Board of Education of Ewing TP*, 330 U.S. 1, 15-16, 67 S. Ct. 504, 91 L. Ed. 711 (1947) ("The First Amendment has erected a wall between church and state. That wall

must be kept high and impregnable. We could not approve the slightest breach."). "The Free Exercise Clause [of the First Amendment] prohibits civil courts from inquiring into any phase of ecclesiastical decision making – its merits as well as procedure." *Hadnot v. Shaw*, 826 P.2d 978, 987-88 (Okla. 1992). Additionally, the Free Exercise Clause provides a "shield from interference by secular inquest" into a church's or its leaders' implementation of its valid ecclesiastical judicature. *Id.*; *see Brown*, 102 Tex. At 332, 116 S.W. at 363 ("[W]henever the question of discipline or of faith or ecclesiastical rule, custom or law have been decided by the highest of the[] church judicatories to which the matter has been carried, the legal tribunals must accept as final, and as binding on them, in their application to the case before them."). Accordingly, members may not involve the state in ecclesiastical government by improperly using the civil justice system to review an ecclesiastical judicatory's action.

Thus, because appellant's entire suit would require us to review the ecclesiastical judicial process and to determine the efficacy of the parties' religious beliefs and practices, we find we are without jurisdiction to decide this suit. (footnote 7.) *See Tilton v. Marshall*, 925 S.W.2d 672, 678 (Tex. 1996) ("To avoid conducting 'heresy trials,' courts may not adjudicate the truth or falsity of religious doctrines or beliefs."); *Green*, 899 S.W.2d at 30; *Hughes v. Keeling*, 198 S.W.2d 779, 783 (Tex. Civ. App. – Beaumont 1946, no writ).

Because the genesis of this lawsuit implicates and, is permeated throughout by, what is essentially an

ecclesiastical dispute, we are constitutionally prohibited from exercising jurisdiction over it.

Accordingly, we affirm the judgment of the trial court.

/s/ Joe L. Draughn
Justice

Judgment rendered and Opinion filed May 18, 2000.

Panel consists of Justices Sears, Cannon, and Draughn. *

Publish — TEX. R. APP. P. 47.3(b).

(footnote 1.)
Appellant {{sic}} stated in their {{sic}} summary judgment response:
Plaintiffs continue to this moment to simply get the chance to come into this Court for a first chance at redress and justice and a righting of gross wrongs done to them by Defendants over the last two years.

(footnote 2.)
The King James Version of Romans 7:14-25 states:
For we know that the law is spiritual: but I am carnal, sold under sin. For that which I do I allow not: for what I would, that do I not; but what I hate, that do I. If then I do that which I would not, I consent unto the law that it is good. Now then it is no more I that do it, but sin that dwelleth in me. For I know that in me (that is, in my flesh,) dwelleth no good thing: for to will is present with me; but how to perform that which is good I find not. For the good that I would do not: but the evil which I would not, that I do.

Now if I do that I would not, it is no more I that do it, but sin that dwelleth in me. I find then a law, that, when I would do good, evil is present with me. For I delight in the law of God after the inward man: But I see another law in my members, warring against the law
of my mind, and bringing me into captivity to the law of sin which is in my members.
O wretched man that I am! who shall deliver me from the body of this death? I thank God through Jesus Christ our Lord. So then with the mind I myself serve the law of God; but with the flesh the law of sin.

(footnote 3.)
The collective charges were as follows:
1. Being an accuser of the brethren;
2. Rejection of discipline and admonition
3. Partiality; maintaining two sets of weights;
4. Pre-judgment and prejudice; hurrying to a decision before all testimony is taken or heard.
5. Hypocrisy
6. Tolerating and feeding a seared conscience.
7. Showing disdain for and profaning the high standards of Christ's under-shepards {{sic}} (elders).

(footnote 4.)
The entire text of the letter is set out as follows:
Dear Bob and Melissa:
We are writing you somewhat belatedly to tell you that we feel that you have sinned by sowing seeds of discord among the brethren at Covenant Presbyterian Church in America and asking you to repent of your sin.
Proverbs 6:16-19
These six things the LORD hates,
Yes, seven are an abomination to Him:

[17] A proud look,
A lying tongue,
Hands that shed innocent blood,
[18] A heart that devises wicked plans,
Feet that are swift in running to evil,
[19] A false witness who speaks lies,
And one who sows discord among brethren.

We have personally seen the fruit of these seeds among others and within ourselves as emotions have been near the breaking point at times. You have discussed your differences with the Session of Covenant with individuals who were never witnesses to any of the incidents as a part of your endeavor to sow these seeds of discord. Furthermore, while the session at Covenant was trying to handle the matter discreetly, you sent out a letter (to those in the church and others who are not even members of our church) broadcasting your point of view, which was a violation of your oath to God taken before the congregation that you would support the "purity and peace of the church." We ask you now to repent of this sin and to cease in this behavior, if you have not already. We also ask your forgiveness in not confronting you previously with your sinfulness and allowing you to continue in your sinful ways. We have written this letter out of a sense of duty to tell a brother and sister that failure to repent may put your very souls in jeopardy.

We will look for your response in the mail. If we do not hear from you or if you are unwilling to repent, the next time we greet you we will ask you if you have repented yet and will pursue no other discussions with you.
Yours in Christ

(footnote 5.)
Regarding their libel claim, the Williamses stated:
The entire ecclesiastical "kangaroo court, KKK or KGB type of Salem witch hunt trial" process unmistakably and undeniably created out of malice by the Defendants, not only out of thin air, but more importantly, in contradiction, contravention, violation, and rebellion against their own good and wise and proper PCA ecclesiastical Constitution and its manifold wise, proper, unambiguous, guaranteed and specifically enumerated protections was and is further proof of not only that the entire normal ecclesiastical process was subverted by Defendants contrary to their own good and wise PCA Constitution, but also for the purpose of subverting the entire process to a commission of libel and other torts they committed with impunity, and continue to do so to this day, while cowardly hoping to stand behind the cloak of a Constitution and rules and denomination that they mocked, denied, violated, subverted, ignored, and threatened the very existence of, by hijacking and subverting the normal, decent, and proper process to their own tortious ends.

(footnote 6.)
In *O'Connor v. Diocese of Honolulu*, 77 Haw. 383, 885 P.2d 361 (Hawai`i 1994), the Hawai`i
Supreme Court held the First Amendment removed any authority from civil courts to resolve disputes that turn on matters of church doctrine, practice or polity, or administration that cannot be decided without resolving underlying controversies over such matters. *See id.* at 371. O'Connor sued the local Bishop after being excommunicated claiming numerous causes of action, including defamation, fraud, negligence, and deceptive acts and practices. *See id.* at 362. The Court decided these

claims would require resolution of controversies over church doctrine, law or polity and would be a matter beyond the purview of the court. *See Davis v. Church of Jesus Christ of Latter Day Saints*, 258 Mont. 286, 852 P.2d 640 (1993) (Court held it was impossible to evaluate church disc0ipline because it would involve an impermissible analysis of religious beliefs and practices.); *Guinn v. Church of Christ of Collinsville*, 775 P.2d 766, 772 (Okla. 1989) ("If members of religious organizations could freely pursue their doctrinal grievances in civil courts, . . . ecclesiastical liberty would be subjected to governmental interference and the 'unmolested and unobstructed' development of opinion and belief which the First Amendment was designed to foster would be secularly undermined.").

(footnote 7.)
Although this case was dismissed through summary judgment procedure, we note that lack of jurisdiction to decide a question may be determined using a p0lea to the jurisdiction. *See Texas Department of Transp. v. Jones*, 8 S.W.3d 636, 638-39 (Tex. 1999) (Immunity from suit raises a jurisdictional bar, defeats a trial court's subject matter jurisdiction and is properly asserted in a plea to the jurisdiction.).

* Senior Justices Ross A. Sears, Bill Cannon, and Joe L. Draughn sitting by assignment.

Appendix Item #2: Order Granting Motions for Demurrer

No. 97-06891-A

In the District Court
Harris County, Texas
164th Judicial District

Robert H. Williams, Melissa B. Williams, Individually and as Next Friends for their Minor Children Danielle Hope Williams, Kristen Joy Williams and Stephanie Faith Williams

v.

Greg Gleason, Beth Gleason, Robert L. Roane , Andrew W. Edwards, William R. Stuck, Neal T. Hare, Thomas W. Hartnett, Jr., Robert E. Stewart, Harold P. Tolsma, William A. Fitzhenry, David Lee Wakeland, Gordon E. Landreth, Irvin M. May, Jr., Robert Charles Bishop, James C. Bland, Donald L. German, E. R. McDaniel, Lawrence S. Ruddell, Michael L. Wilson, and Fred R. Willard,

Order Granting Motions for Summary Judgment

On this date came on for consideration motions for summary judgment filed herein by all Defendants, except Jeffrey J. Meyers, Sr. who has not been served, and the Court having considered the motions with their supporting proof and Plaintiffs' response along with its proof, find that there are no disputed issues of material fact as to each alleged claim; that the summary judgment proof defeats each as a matter of law; and that the motions should be granted.

Order Granting Motions For Summary Judgment Robert H. Williams, et al, v. Greg Gleason, et al.

It is, therefore, ordered, adjudged and decreed that all claims of Plaintiffs against all Defendants, but Jeffrey J. Meyers, Sr. are dismissed with prejudice and all costs of court are taxed against Plaintiffs.

Signed this 6 day of October, 1997.

s/(signature)
(Katie Kennedy)
Judge Presiding

Order Granting Motions For Summary Judgment Robert H. Williams, et al, v. Greg Gleason, et al.

Appendix Item #3: Clerk of Court Notification:

(seal) (Harris County, Texas)

CHARLES BACARISSE
District Clerk
Houston, Texas 77002

Melissa B. Williams
3203 S Briarknoll Dr
Houston TX 77082

Case 9706891 CRT 164 Be advised on 10/06/1997 the following activity occurred. Williams, Robert H vs. Gleason, Greg order for interlocutory summary judgment signed

For- McDaniel, E R
German, Donald L
Bishop, Robert Charles
Landreth, Gordon E
Fitzhenry, William A
Willard, Fred
Ruddell, Larry
Bland, Jim
Willard, Fred R
Ruddell, Lawrence S
Hartnett, Thomas W Jr
Stuck, William R
Roane, Robert L
Gleason, Greg

Bland, James C
May, Irvin M Jr
Wakeland, David Lee
Tolsma, Harold P
Wilson, Michael
German, Don
Bishop, Robert C
Wilson, Michael L
Stewart, Robert E
Hare, Neal T
Edwards, Andrew W
Gleason, Beth

Case 9706891 CRT 164 be advised on 11/17/1997 the following activity occurred.

Williams, Robert H vs. Gleason, Greg
Order denying motion for new trial signed

Case 9706891 CRT 164 be advised on 11/19/1997 the following activity occurred.
Williams, Robert H vs. Gleason, Greg
Severance order signed, party removed

For-

Wilson, Michael
Ruddell, Larry
Bland, Jim
Willard, Fred R
Ruddell, Lawrence S
German, Donald L
Bishop, Robert Charles
Landreth, Gordon E
Fitzhenry, William A
Stewart, Robert E
Hare, Neal T
Edwards, Andrew W
Gleason, Beth
Willard, Fred
German, Don
Bishop, Robert C
Wilson, Michael L
McDaniel, E R
Bland, James C
May, Irvin M Jr
Wakeland, David Lee
Tolsma, Harold P
Hartnett, Thomas W Jr
Stuck, William R
Roane, Robert L
Gleason, Greg

Appendix Item #4: 14th Court denial of rehearing en banc.

August 17, 2000

(seal) (State of Texas) (Court of Appeals)
Fourteenth Court of Appeals
1307 San Jacinto, 11th Floor
Houston, TX 77002

Official Business
State of Texas
No: 14-98-00050-CV

Style: Williams, Robert H., Williams, Melissa B., Williams, Danielle Hope v. Gleason, Greg, Gleason, Beth, Roane, Robert, Edwards, Andrew

Please be advised that on this date, the Court DENIED Motion for en banc consideration in the above cause.

T.C. Case # 97-06891 Ed Wells, Clerk

Robert Williams
3203 South Briarknoll Dr.
Houston, TX 77082

Appendix Item #5: Judgment of 14th Court Affirming Trial Court

(seal) (The State of Texas) (Court of Appeals)

Judgment

The Fourteenth Court of Appeals

ROBERT H. WILLIAMS, MELISSA B. WILLIAMS, DANIELLE HOPE WILLIAMS, KRISTEN JOY WILLIAMS, and STEPHANIE FAITH WILLIAMS, Appellants

NO. 14-98-00050-CV

V.

GREG GLEASON, BETH GLEASON, ROBERT L. ROANE, ANDREW W. EDWARDS, WILLIAM R. STUCK, NEAL T. HARE, THOMAS W. HARTNETT, JR., ROBERT E. STEWART, HAROLD P. TOLSMA, WILLIAM A. FITZHENRY, DAVID LEE WAKELAND, GORDON E. LANDRETH, IRVIN M. MAY, JR., ROBERT CHARLES BISHOP, JAMES C. BLAND, DONALD L. GERMAN, E. R. MCDANIEL, LAWRENCE S. RUDDELL, MICHAEL L. WILSON, and FRED R. WILLIARD, Appellees

This cause, an appeal from the judgment in favor of appellees signed October 7, 1997, was heard on the transcript of the record. We have inspected the record and find no error in the judgment. We order the judgment of the court below AFFIRMED.

We order appellant's, jointly and severally, to pay all costs incurred in this appeal. We order this decision certified below for observance.

Appendix Item #6 : January 4, 2001, Denial of Rehearing Petition, Texas State Supreme Court as follows:

(seal)

(The State of Texas)

THE SUPREME COURT OF TEXAS

Post Office Box 12248

Austin, Texas 78711 (512) 463-1312

January 04, 2001

Mr. Troy Allen Williams
Hays McConn Rice & Pickering
1200 Smith Street, Suite 400
Houston, Tx 77002

Mr. H. Victor Thomas
Jackson Walker
1100 Louisiana, Suite 4200
Houston, TX 77002

Mr. J. Shelby Sharpe
Sharpe & Tillman
6100 Western Place, Suite 901
Fort Worth, TX 76107

Mr. Steven C. Howard
Tucker, Hendryx, Snyder & Slade
8 Greenway Plaza East, 12th Floor
Houston, TX 77046

RE:
Case Number: 00-1028
Court of Appeals Number: 14-98-00050-CV
Trial Court Number: 97-06891

Style: ROBERT H. WILLIAMS, MELISSA B. WILLIAMS, ET AL.
v.
GREG GLEASON, BETH GLEASON, ET AL.

Dear Counsel:

Today, the Supreme Court of Texas denied the motion for rehearing of the above styled petition for review.

Sincerely,
John T. Adams, Clerk

by s/signature
Patricia A. Cook
Chief Deputy Clerk

cc: Mr. Ed Wells, Clerk
Mr. Charles Bacarisse
Melissa B. Williams
Robert H. Williams

Appendix Item #7: November 16, 2000, Denial of Petition for Review, Texas State Supreme Court as follows:

(seal)

(The State of Texas)

THE SUPREME COURT OF TEXAS

Post Office Box 12248

Austin, Texas 78711 (512) 463-1312

November 16, 2000

Mr. Troy Allen Williams
Hays McConn Rice & Pickering
1200 Smith Street, Suite 400
Houston, Tx 77002

Mr. H. Victor Thomas
Jackson Walker
1100 Louisiana, Suite 4200
Houston, TX 77002

Mr. J. Shelby Sharpe
Sharpe & Tillman
6100 Western Place, Suite 901
Fort Worth, TX 76107

Mr. Steven C. Howard
Tucker, Hendryx, Snyder & Slade
1833 Maple Street
Orange, TX 77632-4568

RE: Case Number: 00-1028
Court of Appeals Number: 14-98-00050-CV
Trial Court Number: 97-06891

Style: ROBERT H. WILLIAMS, MELISSA B. WILLIAMS, ET AL.
v.
GREG GLEASON, BETH GLEASON, ET AL.

Dear Counsel:

Today, the Supreme Court of Texas denied the petition for review in the above styled case.

Sincerely,

John T. Adams, Clerk

by s/(signature)
Gena Pelham, Deputy Clerk

cc: Mr. Ed Wells, Clerk
Mr. Charles Bacarisse
Melissa B. Williams
Robert H. Williams

(2)

Supreme Court, U.S.
FILED
MAY 7 2000
OFFICE OF THE CLERK

No. 00-1536

IN THE

Supreme Court of the United States

ROBERT H. WILLIAMS, MELISSA B. WILLIAMS, Individually and as Next Friends of DANIELLE H. WILLIAMS, KRISTEN J. WILLIAMS, and STEPHANIE F. WILLIAMS,

Petitioners,

v.

GREG GLEASON, BETH GLEASON, ROBERT L. ROANE, ANDREW W. EDWARDS, WILLIAM R. STUCK, NEAL T. HARE, THOMAS W. HARTNETT, JR., ROBERT TOLSMA, WILLIAM A. FITZHENRY, DAVID LEE WAKELAND, GORDON E. LANDRETH, IRVIN M. MAY, JR., ROBERT CHARLES BISHOP, JAMES C. BLAND, DONALD L. GERMAN, E.R. McDANIEL, LAWRENCE S. RUDDELL, MICHAEL L. WILSON, and FRED R. WILLARD,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE TEXAS FOURTEENTH COURT OF APPEALS

BRIEF IN OPPOSITION FOR RESPONDENTS LANDRETH, MAY, BISHOP, BLAND, GERMAN, McDANIEL, RUDDELL, WILSON, WILLARD, FITZHENRY AND WAKELAND

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REASONS FOR DENYING THE WRIT

Petitioners have enumerated nineteen questions presented for review. In summary, Petitioners argue that the Texas court of appeals improperly found their numerous claims were not a proper subject of civil court adjudication because they were in reality ecclesiastical disputes; that summary judgment was wrongly granted based upon the evidence before the court; and that the court did not reverse the trial court for denying them any opportunity to investigate their claims. However, the court of appeals' opinion clearly reveals that an examination of the substance of all of the claims is ecclesiastical and outside civil court inquiry and adjudication and that on its face does not conflict with any decision of any other court, state or federal. As to the record, it not only supports the court of appeals' decision, but reveals that the complaints about discovery and certain claims not being expressly addressed were waived by Petitioners and not before the court of appeals. This case does not have far-reaching implications due to its unique facts. In all events, the court of appeals' opinion is correct, and the petition for writ of certiorari should be denied.

I.

THE TEXAS COURT OF APPEALS' OPINION DOES NOT CONFLICT WITH ANY DECISION OF ANY OTHER COURT.

In order to properly determine whether review of the Texas court of appeals' decision is appropriate, the starting point should be an examination of the opinion. The opinion begins by stating the issue before the court to be whether there is "subject matter jurisdiction to decide an ecclesiastical

dispute." The opinion observes that the suit arose out of church disciplinary proceedings. After enumerating the claims, the opinion describes the motions for summary judgment which were filed shortly after the answers to the suit. Petitioners' response, the opinion notes, was unaccompanied by any evidence.

The essential facts are outlined in the opinion. They are summarized as follows:

Petitioners vowed to submit themselves to the government and discipline of the Presbyterian church they joined. Church elders questioned Petitioner Robert Williams about his Sunday School teaching contrary to the Presbyterian church. Subsequently, Petitioners Robert and Melissa Williams "brought a complaint with the local church's judiciary, the Session", concerning the elders' conduct in addressing the teaching issue. The Session received evidence and conducted an investigation culminating in a ruling not to censure the elders. The congregation was informed of the decision without identifying any persons. Petitioners took an unsuccessful appeal to the "next level of the church judiciary, the Presbytery." While the appeal was in process, the local church session brought disciplinary action against Petitioners Robert and Melissa Williams for inappropriate statements made against the elders. After a trial in which Petitioners Robert and Melissa Williams declined to participate, although present, the Session voted to temporarily prohibit them from participating in communion. Again, Petitioners took an unsuccessful appeal to the Presbytery. All of the claims against Respondents Landreth, May, Bishop, German, McDaniel, Ruddell, Wakeland, and Fitzhenry arise out of their participation in the two appeals to the Presbytery.

After setting forth the pertinent factual background, the opinion proceeded to acknowledge the longstanding rule of law that the Constitution of the United States forbids "interfering with the right of hierarchial religious bodies to establish their own internal rules and regulations and to create tribunals for adjudicating disputes over religious matters." *Serbian Orthodox Diocese v. Milivojevich*[1] and several Texas intermediate appellate court decisions were cited as authority. The court then examined the substance and effect of Petitioners' petition to determine if there were any actionable claims involving "property rights, torts, or criminal conduct" over which the civil courts do have subject matter jurisdiction. None were found, and the summary judgment was affirmed.

Following an analysis of the opinion, it is incumbent to measure the opinion by other opinions addressing similar situations. Obviously, the pertinent opinions of this Court must be considered first.

The Court in *Watson v. Jones*[2] declared that "civil courts exercise no jurisdiction" over "a matter which concerns theological controversy, church discipline, ecclesiastical government, or the conformity of the members of the church to the standards of morals required of them." Interestingly, *Watson* involved a Presbyterian church, too. Early in that opinion the Court explained why ecclesiastical disputes must be left in the hands of the ecclesiastical government, to wit:

> **But it is easy to see that *if the civil courts are to inquire into* all these matters, *the whole subject***

1. 426 U.S. 696, 708-09 (1976).

2. 80 U.S. 679, 733 (1871).

> ***of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination*** **may, and must, be examined into with minuteness and care,** ***for they would become, in almost every case, the criteria by which the validity of the ecclesiastical decree would be determined in the civil court. This principle would*** **deprive these bodies of the right of construing their own church laws . . . and would,** ***in effect, transfer to the civil courts . . . the decision of all ecclesiastical questions.***[3] (Emphasis added.)

Watson concluded that "if the civil courts are to inquire into . . . the whole subject of the doctrinal theology, the usages and customs, the written laws, and fundamental organization of every religious denomination" because these matters would be essential for the "civil court" to reach a decision, it would "in effect, transfer to the civil courts . . . the decision of all ecclesiastical questions."[4]

This immunity or abstention, described by some courts, and postulated in *Watson* has repeatedly been reaffirmed by the Court.[5] Even when the effect of the ecclesiastical decision deprives a person of income and property as occurred in *Milivojevich*[6] and *Kedroff*[7], the courts are still not to involve themselves.

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3. 80 U.S. 733-34.

4. 80 U.S. 734.

5. *Gonzalez v. Archbishop*, 280 U.S. 1 (1929); *Kedroff v. St. Nicholas Cathedral*, 344 U.S. 94 (1952); *Presbyterian Church v. Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969); *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976).

6. 426 U.S. 710-11.

7. 344 U.S. 107-08.

The Petitioners argue that *Watson* and its progeny do not apply to them because they were not employees of the church. This is a specious argument because nowhere in any of these cases has this Court, or any other court for that matter, limited these decisions to ecclesiastical employees or officials. In fact, other courts have applied *Watson* to persons who are not church officials.[8]

Watson and its progeny have also been followed by the state courts, according to the opinion of the Texas court of appeals. The courts of Texas have been very consistent in holding that the civil courts are prohibited from interfering in purely ecclesiastical or administrative affairs of religious bodies.[9] It is the general rule, the *Gray v. St. Matthews Cathedral Endowment Fund* decision of the Texarkana Court of Civil Appeals stated, that courts will not intervene as far as the internal or purely ecclesiastical or spiritual features of a church or religious society are concerned.[10] As recently as 1993, the Fort Worth court of appeals' opinion in *Patterson v. Southwestern Baptist Seminary* observed that civil courts

8. *Paul v. Watchtower Bible & Tract Soc. of New York*, 819 F.2d 875 (9th Cir. 1987); *Simpson v. Wells Lamont Corporation*, 494 F.2d 490 (5th Cir. 1974); *Kauffman v. Sheehan*, 707 F.2d 355 (8th Cir. 1983); *Brown v. Mt. Olive Baptist Church*, 124 N.W.2d 445 (Iowa 1963); *Marks v. Estate of Hartgerink*, 528 N.W.2d 539 (Iowa 1995); *Howard v. Covenant Apostolic Church, Inc.*, 705 N.E.2d 385 (Ohio App. 1997).

9. *Patterson v. Southwestern Baptist Seminary*, 858 S.W.2d 602, 606 (Tex. App. - Fort Worth 1993, no writ); *Hill v. Sargent*, 615 S.W.2d 300, 301 (Tex. Civ. App. - Dallas 1981, no writ); *Gray v. St. Matthews Cathedral Endowment Fund*, 544 S.W.2d 488, 492 (Tex. Civ. App. - Texarkana 1976, writ ref'd, n.r.e.).

10. 544 S.W.2d 492.

are bound to accept decisions of the highest judicatories of a religious organization as to matters of discipline, faith, internal organization or ecclesiastical rule, custom or law.[11]

The *Patterson* decision is very instructive here. Patterson appealed a summary judgment denying him recovery in his wrongful termination suit against Southwestern Baptist Theological Seminary. The trial court granted summary judgment on the ground that under the First and Fourteenth Amendments to the United States Constitution and Article 1, Section 6 of the Texas Constitution, the decisions of religious organizations regarding ecclesiastical matters must be accepted by the trial court.[12] Patterson contended that a genuine fact issue existed as to whether his procedural and substantive rights under the seminary bylaws were violated. Citing *Miliovejevich*, the court of appeals held:

> **Where religious organizations establish such guidelines and have tribunals for adjudicating disputes over these matters, the Constitution requires that civil courts accept their decisions as binding upon them.**[13]

In addition to his substantive rights, Patterson argued, as Petitioners have, that his procedural rights had been violated. Patterson unsuccessfully tried to persuade the court that his case was only an employment contract dispute and that the court had jurisdiction to hear it because it could be resolved

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11. 858 S.W.2d 606.

12. 858 S.W.2d 603.

13. 858 S.W.2d 205-06.

by applying "neutral principles of law."[14] The court of appeals reasoned that *Miliovejevich* prohibited the civil courts from making even this kind of inquiry:

> **The current case is most similar to *Miliovejevich*, in which the court concluded that the civil court may not decide whether the church complied with the procedural rules contained in the church constitution and penal code in defrocking one of its bishops.**
>
> **The court also announced the trial court may not use the guise of the "neutral principles" approach to delve into issues concerning whether the general church acted beyond its authority under the church constitution in declaring a reorganization of the Diocese.** *Id.* **Just as the church constitution concerns the internal governance of the Diocese, the bylaws concern the internal governance of the Southwestern Baptist Theological Seminary. Therefore, the trial court could not delve into issue concerning whether Patterson's employment was terminated in accordance therewith.**[15]

Even in actions for libel, slander and intentional infliction of emotional distress that are alleged to arise out of ecclesiastical proceedings, the Houston First District Court of Appeals' decision of *Tran v. Fiorenza* stands for the

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14. 858 S.W.2d 606.

15. 858 S.W.2d 606.

proposition that the civil courts should refrain from acting even in those instances.[16] In *Tran*, Father Tran and his congregation informed the Catholic Diocese of Beaumont, Texas, they were separating from the main body of the church and joining the Traditionalist Catholic Sect.[17] In 1993, Professor Fastiggi, a religious studies professor at a Catholic university in Austin, wrote a letter to Bishop Fiorenza inquiring about Father Tran's standing with the church.[18] Fiorenza responded that Father Tran was excommunicated, was not in good standing and "says mass to a small number of people, including elderly women who have been deceived by him."[19] Lastly, Bishop Fiorenza sent a memorandum to "all pastors" to refrain from advertising or encouraging parishioners to attend a mass "being offered by a Reverend Khoat Tran, an excommunicated priest who has left the Catholic Church by a formal act."[20] Father Tran's suit against Bishop Fiorenza was for libel and intentional infliction of emotional distress, alleging that the statements contained in Fiorenza's correspondence were false.[21] The court held:

> **As Bishop of the Galveston-Houston diocese, Fiorenza's administrative duties include informing members of the Catholic Church of**

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16. 934 S.W.2d 740 (Tex. App. - Houston [1st Dist.] 1996, no writ).

17. 934 S.W.2d 742.

18. 934 S.W.2d 742.

19. 934 S.W.2d 742.

20. 934 S.W.2d 741.

21. 934 S.W.2d 741.

> **the status of its clergy. We believe that statements made by a Bishop in carrying out his administrative duties concerning an excommunication made before, during or after an excommunication, are all part of an ecclesiastical transaction - the divestiture of priestly authority.**[22]

Thus, the ecclesiastical exemption from suit was even broad enough to protect Bishop Fiorenza from any liability for his statement that Father Tran had deceived elderly women in his congregation because such statement was made within the scope of his administrative duties as a Bishop.

A sister state appellate court in California in *Higgins v. Maher*, cited in the Texas court of appeals' opinion, further illustrates that the opinion for which review is sought is not contrary to other court opinions. In *Higgins*, the court interpreted the ecclesiastical privilege to extend absolute immunity to persons acting within the scope of their administrative duties for the church for the torts of invasion of privacy, defamation, and the intentional and negligent infliction of emotional distress.[23] The *Higgins* opinion analyzed the plaintiff's complaint for failure to state an actionable claim before the civil courts as follows:

> **Higgins has pleaded the essential elements of the torts of invasion of privacy, defamation, and the intentional and negligent infliction of emotional distress. His pleading is plain and**

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22. 934 S.W.2d 744.

23. 258 Cal. Rptr. 757 (Cal. 1989).

direct in terms of accusing the Bishop and other church hierarchy of unwarranted and malicious conduct which caused him severe damage. Had these allegations been set forth without the preamble showing their genesis in the priest-bishop relationship, it is doubtful they could have been dismissed on demurrer.

We know not only that the Bishop has defamed Higgins, violated his privacy and caused him emotional distress. We know that the acts so taken were part and parcel of the Bishop's administration of his ecclesiastical functions. We have established, above, that the Bishop is answerable only to canonical authorities for him misdeeds in the wrongful treatment of a priest, in terms of ecclesiastical as distinguished from civil spheres. If, as part of procedures resulting in the defrocking of a priest, the Bishop makes false accusations, we restrain the civil authorities from becoming involved. The accusations, false or not, pertain directly to the ecclesiastical functions of the church, and we deign not to become involved. When we know that torts such as those of which Higgins complains occurred as inseparable parts of a process of divestiture of priestly authority, we are most reluctant to sever them from the privileged aura of what might be called ecclesiastical exemption.[24]

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24. 258 Cal. Rptr. 761 (Cal. 1989).

Another example of how the Texas court of appeals' opinion is consistent with that of other state courts is found in *Howard v. Covenant Apostolic Church, Inc.*[25] There, a church was sued by one of its members who claimed he was injured as a result of being disfellowshipped by the church.[26] The trial court found that the alleged causes of action "were ecclesiastical in nature and, therefore, beyond the jurisdiction of any state court."[27] The appellate court affirmed the decision.[28]

Appellant argued, as Petitioners argue here, that the conduct of the leadership of the church caused him severe emotional distress, defamed him, and that he felt in physical danger when he attempted to attend church services.[29] It was alleged in the suit that the constitution and bylaws of the church had been violated.[30]

The Ohio court of appeals in addressing the issue of whether or not the bylaws and constitution had been violated, wrote that "whether the church followed its internal procedures is a matter of church governance and discipline into which a secular court is prohibited from inquiring."[31]

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25. 705 N.E.2d 385 (Ohio App. 1 Dist. 1997).

26. 705 N.E.2d 386.

27. 705 N.E.2d 386.

28. 705 N.E.2d 381.

29. 705 N.E.2d 386.

30. 705 N.E.2d 386.

31. 705 N.E.2d 387.

The court cited as authority for this proposition *Watson v. Jones*, *Presbyterian Church v. Blue Hull Memorial Presbyterian Church*, and *Serbian E. Orthodox Diocese v. Milivojevich*.[32]

The court also rejected the argument that because appellant was a member of the church and not a pastor, the court decisions did not apply to him.[33] The court reasoned that internal church governance is beyond the jurisdiction of the secular courts regardless of whether it involves a church member or a member of the clergy.[34]

In holding against appellant's claims for defamation, the court observed that the statements in question either took place within a meeting of the church or in connection with church action.[35] All of the statements alleged to be defamatory were totally intertwined in ecclesiastical matters.[36]

Although Petitioners argue their claims are "garden variety" torts, an examination of each reveals that an essential element involves ecclesiastical doctrine and/or procedure. The court of appeals properly recognized this as have the other courts cited in this response.

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32. 705 N.E.2d 387.

33. 705 N.E.2d 388.

34. 705 N.E.2d 388.

35. 705 N.E.2d 388.

36. 705 N.E.2d 388-89.

It has been the practice of this Court not to take an appeal except where a published opinion clearly contradicts either a decision of this Court or of other courts so as to create a far-reaching problem. No conflict has been found.

II.

NEITHER THE RECORD NOR THE DECISION BELOW RAISES THE CONFUSINGLY STATED QUESTIONS PRESENTED BY THE PETITION.

The record reflects motions for summary judgment based on judicial admissions in Petitioners' pleading and summary judgment evidence accompanying the motions that attack all of Petitioners' claims that were appealed to the Texas court of appeals as being barred by the First Amendment to the Constitution of the United States as read into the Fourteenth Amendment due process clause. There was nothing unusual about the motions, the trial court's ruling on them, and the review of the motions by the court of appeals. At the hearing on the motions for summary judgment, Petitioners, by announcing ready for the hearing on motions for summary judgment, waived any objection concerning discovery and prematurity of the motions. Subsequent to the granting of the motions for summary judgment, Petitioners filed documents with the district clerk and the clerk of the court of appeals and argue these should be considered in reviewing the trial court judgment. These documents, which Petitioners still contend should be considered, were properly ignored by the court of appeals and the trial court.

On appeal, Petitioners presented no points or issues to the court of appeals for claims of breach of fiduciary trust,

breach of fiduciary and other responsibilities, negligence, false imprisonment, religious prosecution, conspiracy, extortion and blackmail, Racketeer Influenced and Corrupt Organization Acts violation, false and misleading advertising and fraud, and due process that were presented to the trial court. Under Texas law, according to *Barbouti v. Munden*[37], those claims determined in the trial court judgment were final and not before the court of appeals. Accordingly, the balance of the matters that were before the court of appeals were decided based upon decisions of this Court with citation to state court decisions that had followed this Court's decisions. Nothing in the record or the court of appeals' decision presents any matter for this Court to consider.

III.

THIS CASE DOES NOT HAVE FAR-REACHING IMPLICATIONS BECAUSE ITS FACTS ARE SO UNIQUE.

In the petition, Petitioners maintain that the opinion of the Texas court of appeals will have far-reaching implications by erroneously arguing that it conflicts with numerous decisions of this Court and other courts. Petitioners have not presented a single opinion that conflicts. The preceding sections of this response demonstrate the falseness of Petitioners' contention. But for the fact that his case was brought by *pro se* plaintiffs, it is highly unlikely that another will arise like it.

Regardless, the Court will find when the record and the opinion are considered in light of the applicable case law,

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37. 866 S.W.2d 288, 298 (Tex. App. - Houston [14th Dist.] 1993, writ den.).

that the opinion is correct and consistent with those decisions. This case simply raises no significant issue that has not been well-decided.

PRAYER

For all of the foregoing reasons, Respondents respectfully request that this honorable Court deny the petition.

Respectfully submitted,

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